

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2520

Introduced by Assembly Member Maienschein

February 21, 2014

An act to amend ~~Section 2978~~ *Sections 2978 and 3041.7* of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

AB 2520, as amended, Maienschein. Parole: ~~independent evaluators.~~
primary mental clinicians.

~~Existing~~

(1) *Existing* law requires, as a condition of parole, that a prisoner who has a severe mental disorder, as defined, be treated by the State Department of State Hospitals, and requires the State Department of State Hospitals to provide the necessary treatment. Existing law authorizes a prisoner to request a hearing before the Board of Parole Hearings for the purpose of proving that the prisoner is subject to that parole condition. Existing law also authorizes a prisoner to request that the board appoint 2 independent professionals for that hearing.

If it is determined that the prisoner is subject to the parole condition described above, existing law requires, prior to release on parole, that the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of State Hospitals evaluate the prisoner at a facility of the Department of Corrections and Rehabilitation. Existing law requires the Board of Parole Hearings to appoint 2 independent professionals to conduct an additional review in certain circumstances.

Existing law imposes various requirements on the selection of the independent professionals described above, including, among other things, that they not be state government employees.

This bill would additionally require those independent professionals *professionals, at the request of the prisoner,* to consult with a prisoner's ~~primary therapist, psychiatrist, or psychologist,~~ *primary mental clinician,* as defined, and if any, before making a recommendation concerning that prisoner to the board.

(2) *Existing law specifies the applicable procedures for any hearing by the Board of Parole Hearings to set, postpone, or rescind a parole release date of a prisoner under a life sentence. Existing law also requires that those prisoners are entitled to be represented by counsel at those hearings, and that specified individuals be invited to those hearings.*

This bill would require the board, at the request of the prisoner, to consult with a prisoner's primary mental clinician if the board considers a Psychological Risk Assessment, as those terms are defined, as part of the board's determination of whether to set, postpone, or rescind a parole release date of a prisoner under a life sentence.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2978 of the Penal Code is amended to
2 read:
3 2978. (a) Any independent professionals appointed by the
4 Board of Parole Hearings for purposes of this article shall not be
5 state government employees; shall have at least five years of
6 experience in the diagnosis and treatment of mental disorders; and
7 shall include psychiatrists, and licensed psychologists who have
8 a doctoral degree in psychology.
9 (b) An independent professional appointed by the Board of
10 Parole Hearings for purposes of this article ~~shall~~ *shall, at the*
11 *request of the prisoner,* consult with a prisoner's primary ~~therapist,~~
12 ~~psychiatrist, or psychologist~~ *mental clinician,* if any, before making
13 a recommendation concerning that prisoner to the board. For
14 purposes of this subdivision, "~~primary therapist, psychiatrist, or~~
15 ~~psychologist~~" *mental clinician*" means ~~the person who is in charge~~
16 ~~of treating the prisoner pursuant to this article~~ *a licensed*

psychiatrist, psychologist, or clinical social worker who regularly treats the prisoner pursuant to this article, including, but not limited to, an employee of the State Department of State Hospitals or a privately hired person.

(c) On July 1 of each year the Department of Corrections and Rehabilitation and the State Department of State Hospitals shall submit to the Board of Parole Hearings a list of 20 or more independent professionals on which both departments concur. The professionals shall not be state government employees and shall have at least five years of experience in the diagnosis and treatment of mental disorders and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. For purposes of this article, when the Board of Parole Hearings receives the list, it shall only appoint independent professionals from the list. The list shall not be binding on the Board of Parole Hearings until it has received the list, and shall not be binding after June 30 following receipt of the list.

SEC. 2. *Section 3041.7 of the Penal Code is amended to read:*

3041.7. (a) (1) At any hearing for the purpose of setting, postponing, or rescinding a parole release date of a prisoner under a life sentence, the prisoner shall be entitled to be represented by counsel and the provisions of Section 3041.5 shall apply. The Board of Parole Hearings shall provide by rule for the invitation of the prosecutor of the county from which the prisoner was committed, or his representative, to represent the interests of the people at the hearing. The Board of Parole Hearings shall notify the prosecutor and the Attorney General at least 30 days prior to the date of the hearing.

~~Notwithstanding~~

(2) *Notwithstanding* Section 12550 of the Government Code, the prosecutor of the county from which the prisoner was committed, or his representative, who shall not be the Attorney General, except in cases in which the Attorney General prosecuted the case at the trial level, shall be the sole representative of the interests of the people.

(b) (1) *At any hearing where the Board of Parole Hearings considers a Psychological Risk Assessment, as described in Section 2240 of Article 2 of Chapter 3 of Division 2 of Title 15 of the California Code of Regulations, as part of its determination of whether to set, postpone, or rescind a parole release date of a*

1 *prisoner under a life sentence, the board shall, at the request of*
2 *the prisoner under a life sentence, also consult with the prisoner's*
3 *primary mental clinician if that person exists.*

4 *(2) For purposes of this section, "primary mental clinician"*
5 *means a licensed psychiatrist, psychologist, or clinical social*
6 *worker who regularly treats the prisoner, including, but not limited*
7 *to, a state employee or a privately hired person.*